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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEX CASIPIT HENRY,

Defendant and Appellant.

B267562

(Los Angeles County
Super. Ct. No. VA136209)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Roger T. Ito, Judge. Affirmed.

Brad Kaiserman, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr., and Allison H. Chung, Deputy Attorneys General, for Plaintiff and Respondent.

In a fourth amended information filed by the Los Angeles County District Attorney, defendant and appellant Alex Casipit Henry was charged with receiving stolen property not exceeding \$950 in value (Pen. Code, § 496, subd. (a); count 2),¹ personal identifying information theft (§ 530.5, subd. (c)(1); count 5), and felony forgery (§ 475, subd. (a); counts 3 & 4). As to counts 3 and 4, it was further alleged that defendant served a prior prison term pursuant to section 667.5, subdivision (b).

Defendant pleaded not guilty and denied the special allegation. The jury found defendant guilty as charged. Defendant admitted the prior conviction allegation. He was sentenced to a total term of four years in county jail.

Defendant timely appealed. On appeal, he argues that insufficient evidence supports the conviction of receiving stolen property.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prosecution Evidence

On July 12, 2014, at around 7:40 p.m., Los Angeles County Sheriff's Deputy John Maranan conducted a traffic stop of defendant's truck. Defendant stated that he did not have a driver's license and that he had been previously arrested for forgery. Defendant removed his wallet from his pants pocket and placed it on the dashboard of the truck. His wallet contained a driver's license issued to Alfredo Cardenas Lopez (Cardenas), who had discovered that his driver's license was missing in April 2014 and reported it as stolen. Cardenas did not know defendant and had not given him or anyone else permission to use the driver's license. Cardenas also did not frequent businesses offering internet access on their own computers.

During his search of the truck, Deputy Maranan found in the center console two driver's licenses, one issued to Ryan Christopher Peithman (Peithman) and one with the

¹ All further statutory references are to the Penal Code unless otherwise indicated.

surname “Lumitap.” Peithman did not know defendant and had not given him or anyone else permission to use the driver’s license.

Deputy Maranan also found a folded check in the center console of defendant’s truck. Deputy Maranan observed that the writing that had originally been under the payor’s name appeared to have been erased or scraped off the check and that the information on the “Pay to the order” and signature lines had similar obliterations. Peithman’s name and address appeared in the payor section of the check, but the telephone number, account number, and signature on the check were not his. Charles M. Harnish (Harnish) was the holder of the account number appearing on the check. To pay a bill, Harnish had enclosed the check in an envelope and placed it in his mailbox, but the check had been stolen before a mail carrier arrived. Harnish did not know Peithman or defendant, and he did not give defendant permission to write any checks on his account.

Defendant is five feet, 11 inches tall and weighs about 200 pounds, with black hair and brown eyes. Cardenas is six feet tall, weighs around 195 pounds, and has black hair and brown eyes. Peithman is six feet tall, weighs about 185 pounds and has blue eyes.

II. Defense Evidence

On or around July 12, 2014, Tammy Andrea Henderson (Henderson) was seated next to defendant at a “P.C. place,” a business offering internet access on its computers. Because the person depicted in the photograph of an identification card located next to defendant looked similar to defendant, Henderson asked defendant if it was his. He took the identification card and placed it in his pocket. Nearly a year later, Henderson encountered defendant at a different business and agreed to testify on his behalf regarding the circumstances of the identification card.

Defendant testified that his girlfriend had discovered Cardenas’s driver’s license when she was doing laundry. Defendant had had it for about four days before July 12, 2014, and was driving to the “P.C. place” to return it when deputies stopped his truck. During the traffic stop, defendant gave deputies his name and stated that he did not have a driver’s license because he had lost it. He also stated that he had been arrested in the past for forgery related to fake identification. He further mentioned that he had a driver’s

license that was not issued to him in his wallet and that he was en route to returning it to a “P.C. place.”

Defendant gave Deputy Maranan permission to search his truck. Defendant gave the following testimony regarding the items found during the search: On July 11, 2012, defendant hired two men, Larry Dominguez (Dominguez) and Robert Neal (Neal), to perform a plumbing job at defendant’s sister’s home. While defendant was transporting the men in his truck, Dominguez left behind one of his identification cards and Neal left behind his wallet, which contained a blank check and a completed check. According to defendant, his truck contained his wallet, Neal’s wallet with two checks, Peithman’s driver’s license, and a driver’s license in the name of “Lumitap” issued to another man with whom defendant had worked. In defendant’s opinion, Neal looked exactly like Peithman. Defendant testified that he was not trying to pass himself off as Cardenas or any other person.

III. Rebuttal

Deputy Maranan testified that only one wallet (defendant’s) and only one check were found in defendant’s truck during the search. During the traffic stop, defendant stated that some random person had found Cardenas’s driver’s license in a parking lot and defendant had had it for about a month. Defendant never told Deputy Maranan that a woman at a computer shop gave him Cardenas’s driver’s license. Defendant said that he made no attempt to locate the owner of Cardenas’s driver’s license and had no future plans to contact the owner.

DISCUSSION

Defendant contends that there is insufficient evidence to support his count 2 conviction for receiving stolen property, to wit, Cardenas’s driver’s license.

Evidence is sufficient to support a conviction if, “after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” (*Jackson v. Virginia* (1979) 443 U.S. 307, 319; see also *People v. Hill* (1998) 17 Cal.4th 800, 848–849.)

“[T]o sustain a conviction for receiving stolen property, the prosecution must prove (1) the property was stolen; (2) the defendant knew the property was stolen; and, (3) the defendant had possession of the stolen property.” (*People v. Land* (1994) 30 Cal.App.4th 220, 223; see also § 496, subd. (a) [“Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained shall be punished by imprisonment in a county jail”].)

All three elements are met. First, “[s]ince [inanimate property] rarely disappear[s] on their own volition, the circumstances can usually suggest that someone took them without permission. The People need not prove *who* stole the property; they only need to show that *someone* stole it.” (*People v. Moses* (1990) 217 Cal.App.3d 1245, 1251.) Here, circumstantial evidence supports the conclusion that Cardenas’s driver’s license was stolen. It was not in Cardenas’s possession;² Cardenas had not given anyone permission to use it; Cardenas had reported it as stolen; Cardenas did not patronize “P.C. place[s]”; defendant did not have a driver’s license; defendant and Cardenas were of the same approximate weight and height and both had black hair and brown eyes, thus giving defendant motive for receiving, concealing, or withholding the driver’s license from Cardenas; defendant was in possession of two other driver’s licenses, suggesting that all three were stolen rather than simply lost; and defendant told Deputy Maranan that he had made no attempt to locate the owner of the driver’s license and had no future plans to do so. Based upon this evidence, the jury could reasonably infer that someone had stolen Cardenas’s driver’s license. (*People v. Johnson* (1978) 82 Cal.App.3d 183, 189.)

Second, the same evidence and circumstances justify the inference that defendant knew that the driver’s license was stolen. After all, defendant was found in possession of

² Whether lost or stolen, Cardenas did not have possession of his own driver’s license.

Cardenas's driver's license on July 12, 2014, soon after it was missing. (See, e.g., *People v. Anderson* (1989) 210 Cal.App.3d 414, 421–422 [well within reason for a jury to have determined that possession within four and a half months of the theft leads to an inference of knowledge of the stolen nature of the property].) And, as set forth above, defendant did not have his own driver's license, Cardenas's driver's license was found inside defendant's wallet, and the men share similar physical features.

In urging reversal, defendant argues that the only evidence demonstrating how he obtained Cardenas's driver's license was testimony that he received it from Henderson at a "P.C. place." Thus, there is no way he could have known that it was stolen. But the jury was free to disregard defendant's explanation. (*People v. Russell* (1939) 34 Cal.App.2d 665, 669.)

Third, defendant had possession of Cardenas's driver's license, a fact he does not refute on appeal.

It follows that the conviction of receiving stolen property is supported by substantial evidence.

DISPOSITION

The judgment is affirmed.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
BOREN

_____, J.
HOFFSTADT